



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Francis Flory, MD

Respondent Name

ZNAT Insurance Company

MFDR Tracking Number

M4-15-1865-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

February 20, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Dr. Francis Flory requests Medical Dispute Resolution in pursuant of Rule 133.305 Medical Dispute Resolution in the above referenced patient's case.

These services were requested as prescribed by the Division. The above referenced designated doctor performed the MMI examination and assigned the IR, but he did not perform the range of motion, strength, or sensory testing of the musculoskeletal body area(s), that means he should bill using the appropriate MMI CT code 99456 with the component modifier – 26. Reimbursement for the examining doctor is 80% of the MAR.

The physical therapist and/or health care provider other than the examining doctor that performs the range of motion, strength, or sensory testing of the musculoskeletal body, the physical therapist and/or health care provider will bill with the component – TC. In this instance, reimbursement to the physical therapist and/or health care provider is 20% of the MAR.

The bills from the two parties must be coordinated and billed appropriately and should be billed at the same time for the correct reimbursement..."

Amount in Dispute: \$300.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The dispute appears to be a fee dispute regarding services performed on 10/15/14. Flory, Francis C. MD is appealing reimbursement of \$350.00 and is seeking an additional payment of \$300.00.

Reimbursement for disputed codes is as follows:

99456-W5-26: 28 Texas Administrative Code 134.204(j)(4)(C)(iv) states: If, in accordance with §130.1 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment), the examining doctor performs the MMI examination and assigns the IR, but does not perform the range of motion, sensory, or strength testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with CPT modifier '26.' **Reimbursement shall be 80 percent of the total MAR.**

99456-W5-TC: 28 Texas Administrative Code 134.204(j)(4)(C)(v) states: If a HCP, other than the examining doctor, performs the range of motion sensory, or strength testing of the musculoskeletal body area(s), then the HCP shall bill using the appropriate MMI CPT code with modifier 'TC.' In accordance with §130.1 of this title, the HCP must be certified. **Reimbursement shall be 20 percent of the total MAR.**

Date of Service	Disputed Code	Amount Billed	Fee Schedule Reimbursement	Comments
10/15/2014	99456-W5-26	\$650.00	\$280.00	Reimbursement shall be 80% of the total MAR (\$350.00 MMI Exam - 80% = \$280.00). Upon further review, no additional payment is due.
10/15/2014	99456-W5-TC	\$650.00	\$90.00	Reimbursement shall be 20% of the total MAR (\$300 ROM Upper Extremity [right wrist and right shoulder] + \$150.00 = \$450.00-20%=\$90.00). Upon further review, an additional payment of \$20.00 is due.

Zenith's position is that **an additional payment in the amount of \$20 is due for procedure code 99456-W5-TC.**"

Response Submitted by: The Zenith

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 15, 2014	Designated Doctor Examination (MMI/IR)	\$300.00	\$240.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.204 sets out the fee guidelines for billing and reimbursing Designated Doctor Examinations.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 790 – TX This charge was reimbursed in accordance to the Texas Medical Fee Guideline.
 - Note: Upon further review, we are not recommending additional payment. Reimbursement was made % of the total MAR not billed charges.
 - 224 – TX Duplicate charge.

Issues

- What is the correct Maximum Allowable Reimbursement (MAR) for the disputed services?
- Is the requestor entitled to additional reimbursement?

Findings

- Per 28 Texas Administrative Code §134.204 (j)(3), "The following applies for billing and reimbursement of an MMI evaluation. (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation indicates that the Designated Doctor

performed an evaluation of Maximum Medical Improvement as ordered by the Division. Therefore, the correct MAR for this examination is \$350.00.

Per 28 Texas Administrative Code §134.204 (j)(4), “**The following applies for billing and reimbursement of an IR evaluation.** (C)(ii) The MAR for musculoskeletal body areas shall be as follows. (II) If full physical evaluation, with range of motion, is performed: (-a-) \$300 for the first musculoskeletal body area” [emphasis added]. The submitted documentation indicates that the Designated Doctor performed a full physical evaluation with range of motion for the right upper extremity to find the Impairment Rating. Further, 28 Texas Administrative Code §134.204 (j)(4)(C) states, “(iv) If, in accordance with §130.1 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment), the examining doctor performs the MMI examination and assigns the IR, but does not perform the range of motion, sensory, or strength testing of the musculoskeletal body area(s), then the examining doctor shall bill using the appropriate MMI CPT code with CPT modifier ‘26.’ Reimbursement shall be 80 percent of the total MAR. (v) If a HCP, other than the examining doctor, performs the range of motion, sensory, or strength testing of the musculoskeletal body area(s), then the HCP shall bill using the appropriate MMI CPT code with modifier ‘TC.’ In accordance with §130.1 of this title, the HCP must be certified. Reimbursement shall be 20 percent of the total MAR.” Therefore, the correct MAR for the examining doctor for this examination is \$240.00. The correct MAR for the health care provider performing the range of motion, sensory, or strength testing is \$60.00.

2. The total MAR for 99456-W5-26 is \$590.00 (Total MMI + 80% of IR). The insurance carrier paid \$280.00. The remaining balance is \$310.00. The requestor is seeking \$240.00. Therefore, an additional reimbursement of \$240.00 is recommended for this code.

The total MAR for 99456-W5-TC is \$60.00 (20% of IR). The insurance carrier paid \$70.00. Therefore, no additional reimbursement is recommended for this code.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$240.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$240.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	_____ Laurie Garnes Medical Fee Dispute Resolution Officer	_____ May 13, 2015 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.